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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,454	08/02/2000	Hungming J. Liaw	1533.0730001/SRL/TBB	9071

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC  
1100 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

DEVI, SARVAMANGALA J N

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/630,454

Applicant(s)

LIAW ET AL.

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9 and 12-16 ~~is/are~~ are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-16 ~~is/are~~ are allowed.
- 6) ☒ Claim(s) 9 ~~is/are~~ are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **RESPONSE TO APPLICANTS' AMENDMENT**

### **Finality Withdrawn**

- 1) The finality of the Office Action mailed 03/09/04 is hereby withdrawn in view of the new ground of art rejection for claim 9.

### **Applicants' Amendment**

- 2) Acknowledgment is made of Applicants' amendment filed 08/03/04 in response to the Office Action mailed 03/09/04. The amendment has been entered.

### **Status of Claims**

- 3) Claims 6-8, 10, 11 and 17-20 have been canceled via the amendment filed 03/09/04. Claims 9 and 12-16 are pending and are under examination.

### **Prior Citation of Title 35 Sections**

- 4) The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior Office Action.

### **Prior Citation of References**

- 5) The references cited or used as prior art in support of one or more rejections in the instant Office Action and not included on an attached form PTO-892 or form PTO-1449 have been previously cited and made of record.

### **Rejection(s) Moot**

- 6) The rejection of claims 6-8 made in paragraph 17 of the Office Action mailed 03/09/04 under 35 U.S.C. § 112, first paragraph, as containing new subject matter is moot in light of Applicants' cancellation of the claims.
- 7) The rejection of claims 6-8 made in paragraph 18 of the Office Action mailed 03/09/04 under 35 U.S.C. § 112, first paragraph, as containing new subject matter, is moot in light of Applicants' cancellation of the claims.
- 8) The rejection of claim 11 made in paragraph 19 of the Office Action mailed 03/09/04 under 35 U.S.C. § 112, first paragraph, as being non-enabled with regard to the scope, is moot in light of Applicants' cancellation of the claim.
- 9) The rejection of claims 6-8 made in paragraph 20 of the Office Action mailed 03/09/04

under 35 U.S.C. § 112, second paragraph, as being indefinite, is moot in light of Applicants' cancellation of the claims.

10) The rejection of claims 6-8 made in paragraph 21 of the Office Action mailed 03/09/04 under 35 U.S.C. § 102(b) as being anticipated by Shijo *et al.* (US 5,077,207, already of record), is moot in light of Applicants' cancellation of the claims.

**Rejection(s) under 35 U.S.C. § 102**

11) Claim 9 is rejected under 35 U.S.C. § 102(b) as being anticipated by Hsiao *et al.* (*Biotechnol. Bioengineer.* 49: 341-347, 1996, already of record).

The term raffinate is interpreted in this rejection as a wastestream product from an ion-exchange operation for lysine recovery (see lines 21-23 on page 13 of the specification).

Hsiao *et al.* taught an isolated auxotrophic *Corynebacterium glutamicum* which produces at least 10 g/L of L-lysine 24 hours into the bacterial culture in a culture medium containing glucose,  $\text{MgSO}_4 \cdot 7\text{H}_2\text{O}$ ,  $\text{K}_2\text{HPO}_4$ ,  $\text{KH}_2\text{PO}_4$ , amino acids, sugar from beet molasses, at least 4% ammonium sulfate, and additional ammonium sulfate from an autoclaved recycling broth effluent containing some L-lysine from a cation exchange for L-lysine (i.e., a wastestream product from an ion-exchange operation for lysine recovery). The production of L-lysine was evident after 20 hr. of cultivation. See 'Materials and Methods'; 'Results and Discussion'; Figures 1(a) and 2(a); and Table I and II.

Claim 9 is anticipated by Hsiao *et al.*

**Remarks**

12) Claim 9 stands rejected. Claims 12-16 are allowable.

13) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.

14) Information regarding the status of an application may be obtained from the Patent

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Art Unit: 1645

Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

15) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

August, 2004



S. DEVI, PH.D.  
**PRIMARY EXAMINER**